

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

**PLAINTIFF'S SUPPLEMENT MEMORANDUM IN OPPOSITION
TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

COMES NOW Plaintiff Jean Gaulden (“Plaintiff”) and respectfully requests this Honorable Court to deny Defendant City of Desloge, Missouri, Defendant Brandon Scherffius, Defendant Nathan Bentley and Defendant Gary Gerstenschlager’s (collectively the “Defendants”) Motion for Summary Judgment and submits her Second Supplemental Additional Undisputed Material Facts and submits the following Supplemental Memorandum in Opposition:

I. ARGUMENT

In response to this Honorable Court's Order on April 2, 2009, Plaintiff submits this Supplemental Memorandum in Opposition, particularly addressing Defendant Nathan Bentley's joining the pending Motion for Summary Judgment of the other Defendants.

Plaintiff incorporates by reference her Memorandum in Opposition to Defendants' Motion for Summary Judgment filed on February 23, 2009, Document #72. Particularly, section V(A) and V(D) of Plaintiff's Memorandum in Opposition address Plaintiff's pending claims against Defendant Bentley of Excessive Force and State Law Claims of Assault and Battery, respectively.

As Plaintiff, through her counsel, has now taken the deposition of Defendant Bentley, Plaintiff files concurrently herewith her Second Supplemental Additional Undisputed Material Facts.

II. CONCLUSION

Based upon the foregoing Supplemental Memorandum in Opposition, Plaintiff's Second Supplemental Additional Undisputed Material Facts and Plaintiff's original Memorandum in Opposition, Plaintiff has established a *prima facie* case of excessive force and assault and battery claims against Defendant Bentley and this court should deny Defendants' Motion for Summary Judgment.

Respectfully submitted,

SCHOTTEL & ASSOCIATES, P.C.

BY: s/James W. Schottel, Jr.

James W. Schottel, Jr. #94480
906 Olive St., PH
St. Louis, Missouri 63101
(314) 421-0350
(314) 421-4060 facsimile
jwsj@schotteljustice.com

Attorney for Plaintiff
Jean Gaulden

CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

Mark H. Zoole
zoole@sbcglobal.net

Attorney for Defendants
City of Desloge, Missouri
Brandon Scherffius
Gary Gerstenschlager

I further certify that a copy of the foregoing was mailed first-class, postage prepaid to the following this 7th day of April, 2009.

Nathan Bentley
9294 U.S. Highway 23 South
Pikeville, KY 41501

Pro se Defendant

/s/ James W. Schottel, Jr. _____